

3/15/2016 2:46 pm

U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ROSEMARIE GOMEZ,

Plaintiff,

-against-

**ORDER**

14-CV-7219 (SJF) (GRB)

STONYBROOK UNIVERSITY, STONYBROOK  
UNIVERSITY HOSPITAL, GARY DASARO,  
STEVEN WEISMAN, LUIS deONIS, JO ARKIN,  
and THALIA ANTHONY (sued in their individual  
and official capacities pursuant to N.Y. Executive  
Law §§ 290 et seq.),

Defendants.

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FEUERSTEIN, J.

Before the Court is Magistrate Judge Gary R. Brown's January 28, 2016 Report and Recommendation (the "Report"), in which he recommends that the defendants' motion to dismiss under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) be granted in part and denied in part. No objections to the Report have been filed. For the reasons stated below, the Court adopts Magistrate Judge Brown's recommendation that defendants' motion to dismiss plaintiff's (1) ethnicity discrimination claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 et seq. ("Title VII"), and New York Executive Law § 296 et seq. ("NYSHRL") against defendants Stonybrook University and Stonybrook University Hospital (collectively, "SBU") be GRANTED; (2) retaliation claims under Title VII and NYSHRL against SBU be DENIED; (3) ethnicity discrimination claims under NYSHRL against defendants Dasaro, Weisman, deOnis, Arkin, and Anthony (collectively, "Individual Defendants") be GRANTED; (4) retaliation claims under NYSHRL against the Individual Defendants be GRANTED as to

defendants Dasaro and Weisman, but otherwise DENIED; (5) negligence claims against all defendants be GRANTED; and (6) claim for punitive damages under Title VII against SBU be GRANTED.

Any portion of a report and recommendation on a dispositive matter to which a timely objection has been made is reviewed by the district court *de novo*. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The Court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. *See Thomas v. Arn*, 474 U.S. 140, 150, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985). To accept the report and recommendation of a magistrate judge on a dispositive matter to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. *See* Fed. R. Civ. P. 72(b); *Johnson v. Goord*, 487 F. Supp. 2d 377, 379 (S.D.N.Y. 2007), *aff'd*, 305 F. App'x 815 (2d Cir. Jan. 9, 2009); *Baptichon v. Nev. State Bank*, 304 F. Supp. 2d 451, 453 (E.D.N.Y. 2004), *aff'd*, 125 F. App'x 374 (2d Cir. Apr. 13, 2005). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

No objections to Magistrate Judge Brown's Report have been filed and the time to file objections has passed. For the reasons set forth in the Report, defendants' motion to dismiss is granted in part and denied in part.

**SO ORDERED.**

*s/ Sandra J. Feuerstein*  
Sandra J. Feuerstein  
United States District Judge

Dated: March 15, 2016  
Central Islip, New York